

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12176 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

NARENDRAKUMAR LALABHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12176 of 2002
MR MUKESH H RATHOD for Petitioner No. 1
Ms MANISHA LAVKUMAR, AGP, for Respondent No. 1-2
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 27/12/2002

ORAL JUDGEMENT

Rule. Ms Manisha Lavkumar learned AGP appearing
for respondents No.1 and 2 waives service of Rule.

2. The petition is concerned about admission to the PTC course (general stream). The controversy is whether the petitioner had passed the qualifying examination i.e. higher secondary examination at the first attempt or the second attempt. The authorities had taken the stand that the petitioner passed HSC examination at the second attempt because earlier the petitioner had appeared at the HSC science stream examination in March, 2000 but had failed. Thereafter, the petitioner switched over to HSC general stream examination and passed the same in March / April, 2002 and, therefore, 5 marks are being deducted by treating the petitioner as having passed at the second attempt.

3. The stand of the respondents is not justified as this Court has already held in the judgment dated 25-9-2002 in Special Civil Application No.9443 of 2002 that a student who is seeking admission to PTC general stream on the basis of HSC general stream results, cannot be said to have passed the examination at the second attempt merely because earlier he had appeared at the HSC science stream examination and failed. There is no dispute about the fact that as far as the petitioner's appearance at the HSC general stream examination is concerned, the petitioner did clear it at the first attempt. In view of the aforesaid decision of this Court, the petition is required to be allowed.

4. However, Ms Manisha Lavkumar learned AGP points out that admissions have already closed on 2-11-2002 and the respondent - authorities are in process of getting examination forms filled in by the students. Hence it will be too late to admit the petitioner at this stage as he will not be able to complete the terms.

5. In view of the above, it is directed that at the time of admissions to the PTC general stream course for the academic year 2003-04, the respondents shall consider the petitioner as having passed the HSC general stream examination at the first attempt and shall consider the petitioner's case for admission to PTC course (general stream) without deducting any marks on the ground that the petitioner had earlier appeared at the HSC (science stream) examination.

6. Rule is made absolute with no order as to costs.

(M.S. Shah, J)
zgs/-

